IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.588 OF 2007

Roochitra Textiles Pvt.Ltd. .. Petitioner.

V/s.

The Union of India .. Respondents.

Mr.Prakash Shah i/by M/s.PDS Legal
for the petitioner.

Mr.A.J. Rana, senior counsel with Mrs.N.V. Masurkar
for the respondent.

CORAM : DR.S. RADHAKRISHNAN &
J.P. DEVADHAR, JJ.

DATED : 8TH FEBRUARY, 2007.

P.C. :

1. Rule. Rule is made returnable forthwith. By consent of the parties, taken up for final hearing.

2. The learned counsel for the respondents waives service.

3. By this petition, the petitioner is seeking implementation of the order dated 5th December, 2006 whereby the Commissioner (Appeals), Central Excise has directed the respondents to issue the desired registration certificate to the petitioner. The petitioner is seeking such a registration for a factory at Boisar.

4. The learned senior counsel appearing on behalf of the respondent pointed out that aggrieved by the aforesaid order passed by the Commissioner (Appeals) dated 5th December, 2006, the respondent has been desirous of and in fact they have prepared necessary appeal to file, however, for the reasons set out in their affidavit-in-reply dated 5th February, 2007 the said appeal could not be filed till date in view of certain exigencies in the office.

5. Having regard to the facts and circumstances of the case and also in view of the fact that the respondents are entitled to exercise their remedy of an appeal and also obtain stay with regard to the impugned order, we are inclined to pass the following order :

(i) It is made clear that if the respondents fail to file an appeal before the CESTAT and obtain a stay with regard to the impugned order dated 5th December, 2006 within a period of three weeks from today, the respondents shall forthwith comply with the impugned order dated 5th December, 2006.

(ii) Needless to mention that in the event such an appeal is filed by the respondent, the same shall be decided by the CESTAT without being influenced by this order in any manner.

6. The writ petition stands disposed of in terms of this order with no order as to costs.

(DR.S. RADHAKRISHNAN, J.)

(J.P. DEVADHAR, J.)